IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.MC.No. 2018 of 2004(B)

F.I.R.NO.206/99 OF THE NEYYATTINKARA POLICE STATION

PETITIONER: ACCUSED:

S.MOHANAN,
GEETHA BHAVAN, ARUVIPURAM, PERINGADAVILA,
NEYYATTINKARA.

BY ADV. SRI.M.BALAGOVINDAN
SRI.SASITH.M.R

RESPONDENTS: COMPLAINANT & STATE:

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1. SUB INSPECTOR OF POLICE,
NEYYATTINKARA POLICE STATION.

2. STATE, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2018 of 2004

Dated this the 2nd day of July 2007

O R D E R

The petitioner has been arrayed as an accused in a prosecution under Section 55(a) of the Kerala Abkari Act. After investigation, final report has been filed against the petitioner. The petitioner has a case that he is absolutely innocent and he is not in any way connected with the offence. The offence alleged is one punishable under the Kerala Abkari Act. The miscreant had allegedly abandoned contraband liquor while he was riding a scooter. Seizure was effected by the police, of the scooter and the contraband articles. Investigation led the police to conclude that the petitioner is the person who was riding the scooter at the relevant time. According to the petitioner, he is not the rider. According to him, there is some incongruity and inaccuracy in the description of the name and details of the accused vis a vis his real name and details. He, therefore, prays that the prosecution against him may be quashed.

2. The learned Public Prosecutor, after taking instructions submits that the prosecution's case undoubtedly and unmistakably is that the petitioner herein is the accused in the crime. This has been ascertained by examination of witnesses and also by questioning the registered owner of the vehicle. In these circumstances, the petitioner is not entitled for any directions under Section 482 Cr.P.C, submits the learned Public Prosecutor.

3. After discussions at the bar, the learned counsel for the petitioner finally only submits that this petition may now be closed without any prejudice to the right of the petitioner to raise all relevant contentions including the contention that he is not the person whom the prosecution has now arrayed as an accused. Needless to say, the petitioner's option to raise all his contentions before the trial court shall remain unfettered by the dismissal of this Criminal Miscellaneous Case.

4. This Criminal Miscellaneous Case is accordingly dismissed with the above observations.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007